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POSSESSION OF LAND

In the discussion of the rights to land obtaining in Nupe two facts must be borne in mind. First, the Fulani conquest, which resulted in the appropriation of part of the vacant tribal land; and second, the very low birth-rate and sparse population of the country. These two factors limit each other's effectiveness; moreover, they affect different parts of the country in different measure. We have seen that the appropriation of tribal land took place only in the area east of the Kaduna (Cis-Kaduna).[1] In the area west of the Kaduna (Trans-Kaduna),[2] land-tenure on the traditional tribal or village basis still obtains, and here the population factor shows itself effective in that it eliminates almost all pressure on the land and all more severe competition for landed possession. Owing to the political factors the opposite is true of Cis-Kaduna, and here a complex system of land ownership and land transfer, which in the extreme case amounts to outright purchase for money, reflects the attempts of the people to counteract the pressure on the land. That land disputes are extremely rare in Trans-Kaduna, but very frequent in the 'conquered' territory, is evidence of the same development. One exception may be mentioned at once: the especially valuable marsh-land groves and plots near river-courses, which the Nupe call *bata* (the Hausa *kurmi*). Disputes about this valuable kind of land occur now and again even in the land-rich Trans-Kaduna, and they are fought with special bitterness in Bida and the crowded 'conquered' territory. The following figures may be quoted in support of this statement: in the years 1934 and 1935 24 cases of land litigation came before the *Etsu*'s Court in Bida; 21 referred to Cis-Kaduna and 3 to Trans-Kaduna; of the latter none was a land case in the narrow sense of the word—one was a dispute about trees, and two were disputes over marsh-land plots.

The description of Nupe land-tenure may start most profitably with an enumeration of the various methods by which a man, stranger or native of Nupe, may acquire land or has been able to acquire land in the past. It must be said first of all that under traditional conditions only men can hold or claim possession of land. The dynastic policy of the Nupe kings has first led to women being invested with fiefs and landed property. Mohammedan law, besides, is inclined to confirm land holding by women in their own right. But the holding of land by women is still extremely rare, and limited to Bida and the surrounding districts I have come across one case only—a court case in which sons and brothers of a recently deceased woman contested the inheritance of her landed property. Needless to say, none of the parties concerned were peasants; the land had been acquired first through the channels of clientship, and the present claimants—Bida Malams—wanted it only in order to sublet it for profit.

To return to traditional land-tenure. For a Nupe man who comes

[1] The territory between Kaduna and Gbako river, i.e. Beni country, and the districts east of the Gbako river, i.e. Badeggi and Kacha districts.

[2] Trans-Kaduna is the literal translation of the Nupe name for the area: *Lotunkpa* (*Lovun* being the Nupe name for the Kaduna river).

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425 from farming stock, that is, whose family is holding land already, the usual way to acquire land is to exercise his claim to a parcel of the land that is held jointly by the family group, and which is administered and apportioned by the family head. This would be the procedure, for example, in the case of a young member of the family who had founded a family himself and now requests land for a farm of his own. More or less the same situation would arise in the case of a stranger, a native of Nupe though not of the particular village, or even a native of Nigeria (a Hausa or Yoruba) though an alien in Nupe, who, having been adopted into a household, may request land on which to settle. There is, however, the possibility that the family land available at the time is insufficient; or there might be a man desiring land whose family had not held land previously or had lost the claim to the land, e.g. through overlong absence. Here two main methods offer themselves: first, the man desiring land can exercise his right as a member, native or adopted, of the village community to request land (possibly additional land) from the chief, which may be either land that has been under cultivation previously but has fallen vacant, or virgin land within the village territory. Second, he can acquire new land through an arrangement with an individual landlord (using the term here in the widest sense); in other words, he can lease land temporarily for a rent in kind—a method known in Nupe as *aro*, 'borrowing'. In both these methods the land thus acquired is inalienable.

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A third method closely related to borrowing is a lease for life or for an indefinite period, in most cases against a single payment in money to which is added a fixed rent in kind. This arrangement, which definitely recognizes the money value of land, may be tantamount to real purchase. Fourth, there exists hereditary tenantship, which gives the tenant absolute right over his land, including the right to dispose of it again or sublet it. This tenantship I shall call (for reasons which will become clear presently) *secondary* tenantship. It implies not a fixed rent but a share in the produce—a form of métayer system.[1] Finally, there exists a *primary* tenantship, in which a landlord who himself owns the land by the right of conquest or appropriation may cede complete and absolute rights over land to another person, Nupe or stranger, in recognition of (political) services rendered; here again a share in the produce is implied. The last two methods form part of the feudal organization of the Nupe state.[2]

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We have thus five methods of land acquisition, which fall in two main categories: (1) Acquisition in virtue of membership of a group (kinship

[1] See A. Marshall, op. cit., p. 643.

[2] Different from these traditional methods of acquiring and transferring land is the method of land-tenure under the Native Land Ordinance Act, which, adjusted to modern requirements, involves the lease of native land to non-natives, i.e. non-Nigerians (a merchant who plans a trading-station, a missionary who intends to build a school or church, &c.). In such cases application for a lease of a parcel of the land that has been retained as Crown land must be made to the Administration. This method, and all questions entailed in it, will be disregarded in the following. It is, in fact, of very little significance in Nupe country where no commercial utilization of land and no settlement of non-natives exist.

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group or village community), holding 'corporate' rights to land. (2) Acquisition of land in virtue of a contract between individual landowners—a short-term contract such as the 'borrowing' of land, or a long-term, or indefinite, contract such as is embodied in tenantship and in the granting of land for services rendered. The methods summarized under the first category occur both in Trans- and Cis-Kaduna; of the methods summarized under the second category only 'borrowing' occurs in Trans-Kaduna; all acquisition and transfer of land for indefinite periods is restricted to the 'conquered' area east of the Kaduna.

Village Land

The village land is administered, that is, held in trust and apportioned —in Nupe terminology 'owned'—by the chief. Linguistically the specific character of his administrative right to the disposal of village land is not defined very clearly. The Nupe refer to the chief's control over land in exactly the same terms which they use for the direct utilization and ownership of land by a family head or any individual farmer. The Nupe would use the same term also when speaking of the territory belonging to a village, i.e. the land that is 'owned' by the people of the village collectively.[1] Understood in the widest sense of the word, this village land embraces a territory surrounding the village in a rough circle. It comprises three kinds of land, each called by a different name: (1) occupied land fallow or actually worked, in the hands of families or individuals—*lati*, 'farm'; (2) vacant land which has once been occupied but has fallen back to the common fund of land held in trust by the chief for future allotment—mostly referred to as *gonta*; and (3) a fringe of virgin land claimed by the village community as a land reserve—called *cikã*, 'bush', or, again, *gonta*. The second and third kind of land we will call 'village land' in the narrow sense, as against land of the first kind, 'family land'.

The border between the fringe of virgin land which is regarded as the land reserve of the village and the stretch of no-man's-land which separates it from the territory of the next village is fluid and never rigidly defined. There are no marks or boundary signs. But in the sparsely populated area of Trans-Kaduna this never leads to disputes between villages. The fluidity of this boundary is, in fact, an essential part of the elastic system of Nupe settlement, with its star-like expansion and founding of new 'colonies' which, step by step, extend the village territory. The area of village land rarely stretches beyond a radius of three miles: in other words, the Nupe farms are situated within an hour's walk from home. In some cases, where the farms are farther away, the farmers build small grass huts on the farms, in which they can find shelter in a rain or storm or spend the night if it is too late to walk home. Should the people of the village, in their search for new land, go beyond this easy reach, they would found new, permanent settlements, village

[1] The Nupe would say, for example: *Žitsu wũ kin kpátá*, the chief owns all the land; or *Dokociži wũ kin babó*, the people of Doko own the land round here; but also *Kolo-gá wũ lati-o*, it is Kolo who owns this farm.

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423 however, to give them up as soon as the former owner or his heir may
621 return, even if he had been absent for a longer period than three years—the period of absence stipulated in the village. I have heard of no dispute that has ever arisen over these house-plots, either in the village or in Bida town.

Strangers as Settlers

609 From the land which the chief holds in trust he apportions land on request to strangers who come to settle in a Nupe village and equally, as
425 we have seen, to natives of the village who, through long absence, have
621 forfeited the claim to their family land. The procedure is the same for both. It is interesting to examine these regulations, especially because this form of granting land implies a previous adoption of the applicant into a local household. Generally speaking, the Nupe like strangers—respectable strangers—to settle in their villages. This fact reflects both the lack of pressure on the land and the attitude of a commercially highly developed country which is ready to welcome new citizens, very likely people who bring with them new techniques and new valuable knowledge.[1]

The stranger who decides to settle in a Nupe village will first stop for some time in the house of a family head, perhaps a friend, or friend of a relation, who is ready to accept him as a temporary member of the household. Be it a short or prolonged stay, strangers will never be expected to
[431] pay for their 'lodgings'. A small present of food or kola-nuts is the only compensation. The guest will keep his own *ménage*. But after a time he comes to be regarded as an adopted member of the house, and then it is time to make his request for land and a site for a house of his own. This request will always be done through the *emitsó*, the Owner of the House, who will bring the case of his guest to the notice of chief and elders. The *emitsó* will have to vouch for the character and reputation of the applicant—a bad reputation would invariably lead to a rejection of the
[431] application. The procedure (which varies slightly in different places) is this: a preliminary gift, called *emisa*, 'salute', consisting of ten to twenty kola-nuts, a fowl, a calabash of beer, or—more rarely—money, accompanies the formal request to the chief. Another gift of kola-nuts is made later to the chief's representative (one of the elders), who will go with the applicant to stake out the farm-plot and the site for the house, and who
609 may become later an important witness if any dispute should arise. Now
621 the new landowner sets to work. For two to three years he is exempted
425 from tax. Then, when the crops have been good, he pays his first
651 *dzankó*, not yet to the chief himself, but to the family head in whose

[1] We have mentioned evidence of this already, e.g. the Bornu settlers who
[177] have introduced onion-growing into Kutigi, or the Yoruba-Konú who introduced weaving and indigo dyeing in Yoruba fashion. At the hearing of a court case—it was a rather involved dispute over a house in Kacha that had been 'sold' by the late owner in order to obtain money for tax arrears (the only case of this kind that has ever come to my notice), as a result of which his widow had now no place to go to—the *Etsu*'s Court officially recommended that 'strangers should always be adopted into one's household and given a hut to live in'.

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house he had been staying before, and the latter returns half of the gift to the chief. The next *dzankd* will be the ordinary land-tax of every member of the village community, presented to the chief directly. Today the first part of the procedure has remained unchanged, except that the application (and sometimes the presents as well) may also be addressed to the District Head.[1] But the annual *dzankd* is now replaced by the Government tax.

The grant of land to strangers never includes the trees growing on the farm-land. They remain the property of the village chief or the other native inhabitants, and this makes the analogy between strangers and adopted household members full: for like the strangers junior family members cannot own trees, although they hold land of their own.[2]

Access to Family Land

This question will be examined in detail later, and no more than a short summary is needed here. Three methods regulate the access of the individual member of the family group to the family land held jointly by the group and administered by the family head. (1) Temporary and restricted access to this land is embodied in the right of every male member, boys as well as adults, to a small plot of his own, which he can work independently. Such plots are called *bucd*, and the individual work on the plots is called *bucd* work. (2) Adult male members of the family group, who have already founded a family of their own, may claim a large farm of the kind that is worked jointly by a number of family members. This farm and farm-work is called *efakó*. (3) The fullest access to family land is embodied in inheritance and in the succession to the position of family head. This position implies control over all family land that the family head holds in his hands. The first two forms of access are 'family affairs' arranged without any formality; the last transaction implies, as we have seen, a formal reference to the chief. The chief's control over the occupied village land is thus made conspicuous not with respect to land that is apportioned on a small scale to individuals for direct use, but with respect to the land that is to be held in trust for future distribution by the new family head. The chief, in other words, as he is bound himself to trusteeship, guarantees the trusteeship undertaken by others. The analogy in the position of chief and family head with respect to land is clearly recognized by the Nupe. Both are heads of corporate groups, and both administrators of the joint rights vested in the groups. Both, moreover, hold the same special, economically significant, right to trees.

[1] I am not sure if this is really prescribed by the regulations. I know that in Agaie Emirate all peasants thought it was. In any case it would save a lot of trouble, should disputes arise later, if one had the District Head for a witness of the original transaction.

[2] This rule also holds good with respect to large groups of alien settlers. In Kutigi, for example, it led to the anomalous position that the Benu settlers, although they had become the political rulers of the community and supplied the chief of 'Greater Kutigi', owned no trees at all in the beginning, and still own very much less than the family heads of the *kintsozi*, the Owners of the Land, that is, the original inhabitants.

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423 No junior family member, even when already holding *efakó* land in his
622 own right, may claim any share in the produce of the fruit-bearing trees. Only succession to the family head's position implies the usufructory right to the trees that stand on his or any other parcel of the family land.

Borrowing of Land

427 Land can be borrowed only for limited periods, as a rule for periods from two to five years, that is, in order to help a temporary shortage of land. The family heads or other 'landlords' arrange the transaction between themselves, not necessarily informing the chief, but always in the presence of witnesses who should be able later to testify to the nature of the transaction. Every landowner who has enough land is ready to 'lend' it in this way. In Trans-Kaduna the transaction is regarded as a friendly act, a 'helping out', quite natural between neighbours or fellow villagers. The borrower pays annually a fixed rent in kind, as a rule one bundle of millet or sorghum. In Cis-Kaduna the transaction gains a definite commercial significance: the borrower pays a small sum of money down, varying with the quality of the land (from 8*d.* for about one acre of ordinary land to 2*s.* for a much smaller plot on valuable marsh-land—the highest amount paid I found to be 6*s.*), and again the annual rent of one bundle or the equivalent in money.[1] In one case I found that regular farm-work for the owner of the land had taken the place of the annual rent in kind.

427 A landlord is free to cancel the lease before it has lapsed if the tenant is not working the land—as happens frequently; the court would con-
425 firm his right to do so, only ordering him to return the initial payment. But it may also happen that the landlord dies or emigrates while the lease is still running, or that for some other reason the lease is not recalled. In such cases the lessee often continues to work the land, although he has naturally ceased to pay the annual rent; he even comes to regard the land as his own whether he is working it or not, till one day it may be demanded back by the original owner or his heirs. In Trans-Kaduna, where no long-term transfer of land exists, any evidence as to the nature of the original transaction will at once settle the case. In the conquered areas of Cis-Kaduna, where land is let and sublet, and where short leases and leases for an indefinite period coexist, it is often difficult to establish clearly whether temporary or permanent lease had been arranged originally, specially when the witnesses of the original contract have died. What type of lease was originally intended is shown by the amount of the initial payment, whether it was high or low, that is, a 'real' payment, or only a *kyutá*, a gratuity. The latter, combined with a repeated rent in kind, establishes the nature of the temporary lease, the *jí aro*, 'borrowing'. But the continued working of the 'borrowed' land, and the failure of the original owner or his heirs to call in the lease, clearly alter the situation considerably. The attitude of the court in such

[1] Characteristically this annual rent is called in Bida—quite logically—*dzankú* 'tithe', but in the villages *kyutá*, 'present'.

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disputes is this: if the original owner or his heirs had allowed the rent to lapse without calling in the lease, and if the other party can prove that he has worked the land for a long period, this is generally considered sufficient evidence that the original owner has abandoned his claim to the land, whether the new owner is at the time actually working the land or keeping it as reserve. Long occupation is thus recognized as tantamount to ownership. In summing-up a land case in 1935 the *Etsu* Nupe said: 'We do not agree that a man should be evicted from the place which he has been working for a long time.' And in another case, heard in 1934, the claim of the new 'borrower' to the land was confirmed by the court 'because of the many years the farm had been in so-and-so's hands'.

Litigation about 'borrowed' land comes up constantly before the court in Bida. This is a typical case: A. suddenly demanded back two farms which his grandfather and father had 'lent' to another man, because A. was going to be married and needed the land for himself. He based his claim on the fact that only *aro* had been intended, although the rent had been allowed to lapse. Evidence of the original transaction was difficult to obtain, so the court suggested the following compromise: the transfer of the farm of A.'s grandfather was confirmed, but the farm which A.'s father had 'lent' to the other man the latter was ordered to return—a decision which is again based on the length of occupation. The lack of precision in the concept of land-borrowing in Bida and Cis-Kaduna is illustrated still better by the following case, not itself a court case, but, as it were, a typical potential cause for such land-disputes. A certain rich Mallam had 'borrowed' land from the *Cece*, a *bara* of L., a nobleman of high rank. He had paid 8*d*. down, and every year one bundle of sorghum as rent, for five years. The *Cece* died in the meantime, and the present owner maintained in discussion with me that the land was his and could be inherited by his sons after his death. When I discussed the case later with the *Alkali* he confirmed my suspicion that this was not so; the land could in theory be recalled any day after the five years by the heirs of the *Cece*. But the *Alkali* admitted that this may not be the case for ten or even twenty years; by then the rent would have been allowed to lapse and the details of the original transaction would be difficult to establish.

In the course of the Fulani conquest certain farms which were at the time without a definite 'owner', the original owner having emigrated before the lease had lapsed, and the lessees having ceased work on the borrowed farms, were simply appropriated by the Fulani landlords within whose territory this 'ownerless' land was lying.

Trees are included in this short-term lease or 'borrowing'. But the strength of this regulation, in harmony though it is with the general principles of Nupe land-rights, has been weakened under present-day conditions. Economic stress has made fruit-bearing trees a very valuable resource, and farmers have in a few cases ignored the traditional practice, given away trees with the land, and even 'lent' trees independently of the land they stand upon. This sort of temporary transfer of trees is a simple means of obtaining money quickly (for example, for the payment

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427 of tax): the owner of oil-palms or locust-bean trees would sell a year's yield of his trees to another person, who in return would pay the tax for him. The issue is still more confused where the transfer of the land with which the trees go appears to be in the nature of a lease for an indefinite period. In this case the original owner or his heirs could claim that the trees, at least, were essentially inalienable, and could be transferred only temporarily, that is, could only have been 'lent' and 'borrowed'. This is itself a compromise, and the attitude of the court in these disputes constitutes a further compromise. In 1934 a farmer had ceded a farm-plot with locust-bean trees on it to another party. After the death of the original owner his heirs reclaimed the trees (though not the land) on the plea that the transfer of the trees could in the nature of things have been meant only as a temporary transfer. The decision of the court was that the new owner should share the crop, fifty-fifty, with the former owners.

Long-term Lease and Purchase

[184] We come now to forms of land-ownership which are typical of Bida and the conquered areas east of the Kaduna and which are almost completely absent in the Trans-Kaduna districts.[1] Among the people of Bida town who derive their livelihood from the land, a few descendants of the original Beni population still own land under tribal conditions, that is, under the conditions described under the heading of village land. Their farms are scattered over the land around Bida—the village land that used to belong to the old, pre-Fulani Bida. But most of this land had been expropriated early in the conquest, under one or other pretext, and the former owners and their descendants had left Bida and moved into the country to other villages or *tunga* settlements, where they found vacant land. Thus of the descendants of the Beni 'town-kings' of Bida only Ndakotsu, the eldest of a number of brothers, had remained in Bida and continued to work the small plots that he had been able to keep; the other brothers had left the town and settled in the country.

Long absence, or the dying out of a family branch, too, gain a totally different aspect here in Bida, as compared with conditions in the village. For the vacated plot is as a rule at once appropriated by one of the big landlords whose lands may surround it, or possibly by one of the three royal houses on whose territory the plot may lie. The latter procedure was, as we shall see, the practice in pre-British times and in the early days of British rule. A somewhat similar case happened during my stay in Bida: a Bida man had returned to the town after a long absence and, claiming his old land, found that it had gone to another man. According to Nupe customary law he had forfeited his right to the land, having been away for such a long period. However, the customary law is not adapted to cope with conditions as they obtain in the town and in 'conquered territory': for here no spare land exists that could be offered to

[1] The exceptions are a few *tunga* settlements which some Bida noblemen have founded outside the 'conquered territory', for example on the Wuya-Kutigi road. There are no *tunga* of this kind west of Kutigi.

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the claimant in compensation for the land he had lost. Besides, the man's old land had changed hands several times in the meantime, and could not simply be taken away from the present owners who had spent work and money on it. The man was unwilling to move to a village, where he could find land, and unwilling, too, to take land in Bida for which he would have had to pay a small rent. He felt that he had been wronged, and being of a rather violent temper and a slightly unhinged mind he attacked the judge and threatened the *Etsu*, and his search for a new place where to live ended under lock and key.

The village ways of obtaining and securing land, rendered impossible by the social conditions obtaining in the capital and in what we have called the 'conquered territories', are replaced by a large variety of other, much more complicated—and costly—methods of land transfer. All land is in fixed hands; land cannot simply be claimed on the grounds of citizenship from the *Etsu* Nupe. Nor is land around Bida, especially the valuable marsh-land, often given away in short-term lease. But land can be acquired by the method of lease for life or of tenantship for an indefinite period. In Bida a large number of dependants of the royal household, fief-holders, former warriors, slaves, or Mallams who were attached to a noble house, possess land granted to them by the king or a powerful feudal lord. These landlords, usually not farmers themselves, are frequently prepared to let their land (or sometimes to sublet it if they themselves have obtained it by a similar arrangement) to men who are in need of land for their farms. If the landlord is of high rank the transaction is never carried out by him personally but always by an agent, who expects a small gratuity from the tenant for his services. The rent itself consists in a comparatively high initial payment in money —£1 to £2—and, again, the fixed annual rent in kind. M., a wealthy Bida man, for example, acquired two years ago a farm for his newly married son from a former slave of *Etsu* Mohamadu. He paid £1 in money, and undertook to pay an annual rent of one bundle of millet. The money was pocketed by the former slave himself, but the rent in kind went to the family of *Etsu* Mohamadu—a sign that the former owner was himself only a tenant (though a tenant of a different category). This transaction is definitely spoken of as sale and purchase of land. The lease itself is, in fact, 'sold' and 'bought'; for the original tenant has ceded all his rights, for a single payment, to the new tenant who takes over the lease from the (real) landlord. The concept of sale and purchase is emphasized further by the practice of the court rarely to bring up the matter of the annual *dzankd* in kind (although it is almost invariably implied in the transaction). The initial, single payment, and the nature of the right to the land which this payment entails, are the only points with which the court is concerned. The importance of the annual rent in kind, however, apart from the 'purchase' price, reveals itself in the practice of recalling the contract if the tenant leaves the land unworked (that is, is unable to pay the annual tithe). Also, if the tenant has for some other reason discontinued the tithe, the lease may be recalled (though here, as we shall see presently, modern court practice would not sustain the claims of the landlord).

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427 The lease is only for a lifetime—at least in theory—and has to be renewed by another payment in money if the heirs of the tenant intend to keep the land. If tenants and landlord are on good terms, or are social equals, or if the landlord is under some obligation to his tenant, the renewal is a mere formality and may be granted for a small gratuity. Thus tenants often feel justified in regarding their right to the land as implying absolute ownership, ownership *har dbada*, 'for ever'. But the [691] large number of disputes of this kind which come before the court prove that the arrangement is open to misinterpretation as well as misuse. Landlords who for any reason are dissatisfied with their tenants, or have found a higher bidder, may unexpectedly call in the lease, either at the death of a tenant or during his tenancy, or demand on the threat of eviction another, higher, payment from the tenant or his heirs. Here are two examples: A., a rich landlord, had 'sold' the same farm twice, first for 10*s*., and afterwards for 16*s*. E. transferred a farm-plot that had fallen vacant after the death of the tenant twice in two years, pocketing £3 altogether.

427 Like the practice itself the attitude of the court towards these cases of 'purchase' or indefinite lease is ambiguous and uncertain. Only in one 425 respect the issue is certain: all evictions from planted land, between the times of sowing and reaping, is declared illegal on whatever grounds the eviction may be based. Every man is entitled to the fruits of his immediate work. As regards the wider issue the tendency of the court seems to be this: if the transfer of the lease has taken place fairly long ago, the fact of the long occupation (and actual working) of the disputed land is taken to entail permanent ownership; further payments of *dzankd* rent are discouraged, and thus the purchase of the land is recognized as an accomplished fact. (As already said, in cases of this kind an original short-term lease—'borrowing'—is often confused with transfer for an indefinite period or for lifetime.) In other cases, where the transfer took place more recently, the court suggested the alternative solution of a return either of the money or the land.[1] In one or two cases of this kind the *Etsu* even made it clear that he wished to discourage sale of land for money altogether. In summing up a land case that came before the court in 1934, he said that 'it was right to divide up land for the benefit of people who had insufficient land; but this should not be done for money'—a pronouncement which, though morally admirable, does not quite do justice to actual facts. For how, one might ask, can land be 'divided up' for the needy in an area where such strong pressure on land, and such multitude of vested rights in land, obtains, if no allowance is made for some sort of compensation? In the Nupe economic system, firmly based as it is on money, a monetary compensation, sale and purchase, seems the only solution, unless the Administration is prepared to repudiate the whole system of land ownership as it exists in the 'conquered territory' as well.[2]

[1] This decision, however, made no allowance for the diminished value of the land, in the sense that the man to whom it was returned might have to leave it lying fallow for a considerable period before being able to cultivate it again.

[2] In one dispute of similar nature, which came before the court in 1935, the

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It will have been seen already that the land disputes which we have just described reflect more than merely disputable, equivocal land-contracts. The landlords who 'sell' the land are without exception men of the titled classes, courtiers, favourites, or former slaves of the king or of powerful noblemen, and the 'buyers' mostly commoners, peasants who have had no other chance of obtaining additional land. To-day they are coming to realize that their right to the land which they acquire is protected by the Native Court. But till very recently, in order to obtain their rights, they would have had to bribe their way through or to find a protector equal in rank and influence to the landlord who threatened to evict them—a typical source of the institution of clientship, which we discussed in a previous chapter.[1] A final example. A certain farmer had 'bought' land from D., a *bara* of the late *Etsu* Saidu. The *Etsu*, for reasons of his own, refused his confirmation of the deal—D., being a tenant of the *Etsu*, could not transfer the lease without the latter's permission—and the tenant had only one way open: he attached himself to another, more influential, *bara* of the *Etsu* and through him made various gifts to the *Etsu*, over £3 in money, a valuable civet cat, and promised besides an annual rent of two bundles of corn.

Hereditary Land: Secondary Tenantship

Clientship, combined with a métayer arrangement, becomes a factor in land-tenure also in another respect. A commoner who desired more land, or a new piece of land, could give himself into the service or 'patronage' of a landowning overlord and thus secure land as well as political protection. The conditions were: an initial gift in kind as in all pacts of clientship, occasional presents, visits and other expressions of homage, and finally a tithe (*dzankd* again) from his millet or sorghum crop. This submission to patronage was often the only means by which the peasants in Cis-Kaduna could hope to retain their property when threatened with expropriation, and also the only means by which they could secure new land, that is, access to what under tribal conditions would have been a reserve of village land. The necessity of obtaining land and enjoying its secure possession thus constitutes another of the main roots of clientship. The lease of land obtained by these methods is hereditary, and remains in the family, a comparatively safe possession—unless political factors interfere. The tenants are rarely allowed to forget that the relationship between landlord and client implies more than merely a correct commercial relationship. Lack of respect, an apparent failure to render due homage, or behaviour suggestive of changed

Etsu himself suggested that the disputed piece of land (a river grove that was claimed by two neighbouring villages) should be bought for money by one of the parties. The purchase price fixed was 15s.

[1] Till very recently no peasant tenant would have dared to invoke the *Etsu*'s or *Alkali*'s help against his landlord; he would have been looked upon as somebody who had broken away from a firmly established tradition of loyalty, one-sided though it was. The tenant in the last example quoted above kept silent for fifteen years; not till 1934 did he venture to bring his case before the court and thus to obtain a final confirmation of his ownership.

1: Nadel E-5 (1934-1936) 1942
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services which they have rendered to their overlords. Ultimately all land is derived from one source: the royal house, which again bestows land for services rendered. The title of the royal house to the possession of land is by the right of conquest. We must examine this more closely.

In the conquest of Nupe country the members of the royal family appropriated three categories of tribal land: all no-man's-land between villages, i.e. virgin land in the *cikā*, the uninhabited bush; also all village land which, once occupied, had been lying fallow for long, either because of the death of the owner or his emigration, or because a short-term lease (borrowing) had lapsed; finally, under certain conditions, the *Etsu* also seized the village land on the outskirts of the village territory, what we have called the 'land reserve' of the village. The first two kinds of land were divided up geographically between the three royal houses, as we have already seen, one receiving all land to the east of Bida, one all land to the west and north-west, and the third all land to the south of Bida. (See sketch-map, p. 81.) The last category of expropriated land (the village 'reserve') was sometimes appropriated by a ruling *Etsu* arbitrarily and irrespective of its geographical position in one of the three royal territories.[1] Of the land thus owned by the royal houses by the right of conquest the *Etsu* or royal princes of highest rank bestowed smaller or larger parcels on their followers, members of the nobility or slaves and *bara* 'for services rendered'; the land grant gave them complete and permanent rights to the land, in return for which they had to pay the usual annual *dzankà* in kind. The royal tenants—'primary tenants' as we have called them—then settled their own men in various ways on this land, either founding *tunga* settlements for them or subletting the land (or part of it) in any of the ways discussed above. Every landed property which we find in the 'conquered territory', excepting only the scattered islands of original village land, has thus been derived directly or indirectly, that is, through the hierarchy of feudal nobility, from one of the three royal houses of Nupe.

Apart from these possessions which were given away to rank-holders and henchmen the royal families have kept certain royal estates proper. This land is not transmitted in the ordinary way of inheritance to younger brothers or sons, nor is it alienable like the other lands appropriated by the royal houses, but can be claimed only by the three titled heads of the royal dynasties. Right to this special royal land is thus part of the promotion to rank and status within the dynasty and the political system at large. It implies absolute and permanent ownership; it implies more than merely the 'administrative' control over family land that is vested in the family head in the Nupe village. Yet it reflects the most essential element in Nupe peasant ownership of land—what I have called 'access' to the land in virtue of headship of the kinship group. This surprising analogy between feudal monarchy and peasant ownership is rooted in an analogy in the structure of the two groups as such, village

[1] Thus, for example, all the land in the district of Jima, south of Bida, belongs to the house of Umaru Majigi. But the village land of Kucigi, a village in this district, had been appropriated by *Etsu* Maliki (of the house of Usman Zaki) when he was *Etsu* Nupe and bestowed on one of his slaves, the *Cece*.

3: Forde E-4 (no date) 1955 FF52 Nupe FF52

larly bitter in Bida. In the area west of the Kaduna River, there was less appropriation and there is less pressure on land. Land tenure is on a traditional tribal or village basis; there is no severe competition for possession and land disputes are rare.

Traditionally men only could hold land; acquisition by women is still comparatively rare and occurs only around Bida. Rights may be acquired in various ways:

(1) By a member of a non-land-owning family exercising his right as a member of the village community; land thus acquired is inalienable.

(2) By short-term lease from an individual land-holder for two to five years; this method is known as *aro* (" borrowing "); land thus acquired is also inalienable.

(3) By a member of a land-owning family exercising his claim, on his marriage, to part of the land held by the family.

(4) By a stranger adopted into the household, in the same manner as (3).

(5) By lease for an indefinite period, against payment plus rent in kind; this has now become tantamount to purchase.

(6) By hereditary tenantship; no rent is paid but a share in the produce is given.

(7) By " primary " tenantship; rights are ceded to another in recognition of services rendered, but the tenant must provide a share of the produce. If the primary tenant is not himself a farmer, as is often the case among members of the Nupe nobility, he will sub-let the land for a high initial fee and rent in kind.

Village land is held and apportioned by the chief. It is of three types:

(1) Land in the hands of families or individuals, whether worked or fallow (*lati*).

(2) Vacant land which has reverted to the chief for future allotment (*gonta*).

(3) The fringe of " reserve " land or bush, the boundaries of which are unmarked (*cika*).

Village land rarely stretches more than three miles from the village. Small individual plots (*bucá*) are mainly near the village; larger family plots of 12–16 acres (*efakó*) are generally farther afield. Family plots do not all lie near together. Land is not fenced except on the marshland plots near Kacha.

No fruit trees on village land may be cut down without the permission of the head, who has a special right to all fruit-bearing trees. Shea-nut trees on vacant land are common property, and women collect the fruit and share it. Shea-nut trees on occupied farmland belong to the owner of the farm. Farm plots in the village itself are owned by the people living in the compound adjoining the plot; they are apportioned and inherited within the houses and never left uncultivated.[80]

Tenure of fishing pools is important among riverain groups. Among the Batači every pool has a name and a specific owner. A pool may be owned by the village collectively or by an individual or it may be attached to a title and change ownership with it. Pools owned by individuals can be inherited. Rents are fixed by custom and do not vary from year to year; yearly fishing rights may be bought by individuals.[81] Strangers in Kede district seek formal permission to fish from the *Kuta*, through the village head in whose area they settle. The period of settlement varies from a few months to about three years, but there is no permanent settlement. Presents of fish may be made to the village head and the *Kuta*, or strangers' tax paid to the Bida Treasury.[82]

[80] Nadel, 1942, pp. 180–204; Temple, 1919, p. 331.

[81] Prices given in the appendix to the Notes on Kede District (1950) vary between 2s. 6d. and £2.

[82] Notes on Kede District, 1950.

4: Temple G-4 (no date) 1922
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an outfit for their daughter, pots and pans, mats, etc. A rich man gives something under £4, and spends perhaps as much as £9 or £10 on cloths. If he is unable to raise all this money at once an arrangement can be made in the Alkali's Court, by which he is bound over to make up the deficit within a given time, and so long always as he gives his wife 1,250 cowries, value 6d., for her first chop money, they may marry at once. 585

The dowry is sometimes remitted in cases where the father-in-law can afford to support the young couple, or a man may marry his first cousin without payment. Where no dower is given the marriage is known as "salaka."

Girls do not marry as a rule before they are sixteen or seventeen and often not till they are twenty, men when they are eighteen or twenty, or later, according to their wealth. The customs of the aboriginal pagan Nupe* differ slightly. The betrothal being arranged by the heads of the respective families, and when it is agreed upon, the boy's guardian assembles the whole family and names the bride in their presence and in that of the prospective groom. All presents are given through the guardian, whom the suitor accompanies on his visits to the bride's people, but he does not see the bride herself. A week before the marriage is consummated both parties remain in their houses, the groom to receive the salutations of his friends, the bride to stain her hands and feet with henna, and to powder her face and body with camwood. On the wedding day the suitor's friends escort him to the hut of his betrothed, where they talk, but she sits silent until the groom gives her presents, which is a signal for the departure of his friends. When the groom emerges he proclaims whether or not he has found his bride chaste. A feast follows, and the groom is escorted back to his house by his friends, where he is followed later by his bride, who is attended by women carrying her outfit. The couple live together in one hut until she conceives, when her husband builds himself another house. 582 184 584 184 184 585

The wedding festivities for a virgin are carried on for a week, day and night. For the first three days they take place in her own people's house, and on the fourth day she goes to her husband's house, where the feasting continues for another four days and four nights. Seven days of seclusion follow, when neither man nor wife may be seen, and after this he is allowed the full honours of a husband. The bride, however, may not go out till three months have elapsed.

The ceremony is of a very much humbler description for a second marriage.

In the Gurara District of Nupe (Lapai Emirate), a curious custom exists, which, with minor modifications is practised 588 557 351 425

* Sapke and Mokwa. The differences only have been mentioned, not the similarities.

4: Temple G-4 (no date) 1922

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as far east as Awtun (Ekiti), and from Yagba District to Ilorin. *"A wealthy woman trader would sometimes go through the form of marriage with one or more young women—reputed virgins. These 'wives' she would send out to various neighbouring villages, ostensibly trading. When, in the expected course of events, these 'wives' formed illicit attachments, a careful note was made of the resultant progeny. When the children had reached five or six years, or more, they were claimed by the woman 'husband' as her children, based on the legal fiction of all legal wives' children being the children of the legal 'father.' In almost every case, the real father compounded with the legal 'father,' in the customary value of the child. The profit to the woman capitalist was exceedingly great.

"This custom is not confined to the pagan, nor to the female sex. Many a reputed Mussulman (Bida-Pategi) will allow his wife to go on three and four years' trading expeditions, fully cognisant of the inevitable results. In due time he will apply for the custody of the children, which are legally his until his wife has sued for and obtained a legal divorce, which last is seldom done, owing (in Nupe and Ilorin generally) to the high 'dowry' money claimed. If the case is settled out of Court, the husband enjoys substantial profits. On the other hand, if the wife and children return to him, which is seldom nowadays, he can always obtain a respectable 'dower' from the suitors to the girl children. As to the boys, he finds every use for them on his farm."

The first wife is the head one, and advises the other women on all household and commercial matters, and they have to apply to her for permission to leave the compound. Each wife has her own hut, but all the women have their meals together, when they sit round the pot in a circle, in strict order of precedence, counting from the right hand of the first wife. Next her is the second wife, next her the third wife, next her the fourth wife, then come their daughters and foster-daughters in order of age, dependants and slaves. The first wife helps herself and passes the pot round the table, hands only being used—she alone may sit upright, while the others are obliged to crouch in her presence.

There are three meals in the day, at 7 a.m, mid-day, and sun-down, each meal consisting of one dish only. For breakfast they have "fura," a sort of porridge, with cow's milk where it is obtainable, (The Nupe will not drink goat's milk, though they eat its flesh.) At noon the poorer people have porridge again, the well-to-do have guinea-corn, or rice, mixed with soup. Supper is the principal meal, when soup is made with guinea-corn or rice, and any meat or fish that may be available.

* Mr. E. C. Dufi.

sons, his whole brothers, and his daughters in a fixed and decreasing proportion. If the children are infants the money is held in trust for them by the brothers of the deceased. A woman's money is inherited in the same way, but either sex may leave their money as they choose, by declaring their wishes in the presence of a large number of responsible witnesses. If there is no family, a woman may inherit from her husband, and in some cases where there are no children, and she is known to have been a specially good wife, the brothers of the deceased forego their right in her favour. If she has no children her property goes to her husband. In no case does an illegitimate child inherit.

In old times the people did not dare live outside walled villages, but the neighbouring lands were apportioned by the village-head amongst the various heads of families, according to the amount he and his could beneficially occupy. The family-head in his turn granted the right of occupancy to individuals of his family, and, as no tree was of value before the virgin forest was cleared, each occupant had also the right to the sylvan produce of his land. As, however, virgin forest diminished and land became less plentiful, the heads reserved the use of the oil-palm to themselves, though at one time they held it in trust for the Emir.

Land cannot be sold, but it may be redistributed either on the migration of the holder, or on the extinction of the whole family. The village-head has a right to ask the family-head to give him back some land that he may grant it to a new comer, always supposing that this land is not at the time fully occupied. The right of occupancy passes on the death of the holder to the successive head of the family.

Amongst the pagan Nupe* the guardian spirit "Gunu" is worshipped. Sheep, dogs and fowls are sacrificed in his honour, their blood being poured out as a libation to him, whilst their flesh is consumed by the worshippers. Every eleven months the men go to his altar, beneath which sacred relics have been buried since time immemorial, where they kneel down in a wide circle, joining hands, and bowing their foreheads to the ground. The Elders address the spirit, and a feast and special dance follows. Other festivals are held at harvest time, and on the appointment of a new head-man, each village head-man being also village priest. There is a semi-religious institution called "Ndakogboiya." A meeting is held at the Chief's house, when a man may complain of his wife's conduct and beg that she may be taken to task, together with any other ill-doer. A man then mounts on stilts, and appears amongst the people after dark, proclaiming their evil deeds, and receiving propitiatory

* Sapke and Mokwa.